

**BOROUGH OF NORTHVALE**

**County of Bergen**

**State of New Jersey**

**ORDINANCE #984-2017**

**AN ORDINANCE AMENDING CHAPTER 74 OF THE CODE OF THE BOROUGH OF NORTHVALE ENTITLED “BACKGROUND CHECKS” FOR PROSPECTIVE EMPLOYEES, EMPLOYEES, AND VOLUNTEERS**

WHEREAS, Article I of Chapter 74 of the Code of the Borough of Northvale currently provides for criminal history background checks for Borough employees and volunteers working with minors; and

WHEREAS, N.J.A.C. 13:59-1 et seq. authorizes the dissemination of New Jersey criminal history record information by the New Jersey State Police Identification & Information Technology Section, State Bureau of Identification for noncriminal justice purposes to municipalities within the State of New Jersey for any official governmental purpose, including, but not limited to, employment, licensing or the procurement of services; and

WHEREAS, the Mayor and Council of the Borough of Northvale find that obtaining criminal history record information and motor vehicle violations record background information on current and prospective Borough employees and volunteers, is necessary to protect the public health, safety and welfare, and will assist in reducing insurance costs, liability, motor vehicle accidents, and would otherwise be in the best interests of the citizens of the Borough of Northvale;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Northvale, Bergen County, New Jersey as follows:

SECTION 1. Chapter 74, entitled “Background Checks,” of the Code of the Borough of Northvale, is hereby amended to add thereto Article II to read in full as follows:

“Article II – Criminal History and Motor Vehicle Record Information for Borough Employees

§ 74-6. Definitions.

**Borough Employee** means all current or prospective salaried officers and employees of the Borough, including, but not limited to, employees within the Police Department, Department of Public Works, Building Department, Board of Health, Library, as well as employees and volunteers in the Fire Department, Fire Prevention Bureau and Ambulance Corps, except those personnel exempted herein.

§ 74-7 Exempted Personnel.

The personnel of the Borough hereinafter designated shall be exempt from the provisions of this article:

- A. Elected Officials.
- B. The Borough Engineer, Borough Attorney, Borough Auditor, Board of Adjustment Attorney, Planning Board Attorney and Borough Judge.
- C. Professional consultants or counsel rendering professional services.

§ 74-7. Criminal history and motor vehicle record background checks required.

The Borough requires that all current and prospective Borough employees, 18 years of age and older, as hereinabove defined, annually submit a signed consent to the Borough to conduct a criminal history background check and a motor vehicle record background check to the extent permissible by law.

- A. For all prospective employees, the Borough shall abide by N.J.S.A. 34:6B-11 et seq., otherwise known as the New Jersey Opportunity to Compete Act (the “Act”). Consistent with this Act, no criminal background checks shall be completed until after the “Initial Employment Application Process” as defined in N.J.A.C. 12:68-1.2 set forth below.

“‘Initial employment application process’ refers to the period beginning when an applicant for employment first makes an inquiry to an employer about a prospective employment position or job vacancy or when an employer first makes an inquiry to an applicant for employment about a prospective employment position or job vacancy, and ending when an employer has conducted a first interview of an applicant for employment, whether the interview has been conducted in person or by any other means.”

- B. The Borough shall conduct a criminal history record background check and motor vehicle record background check only upon receipt of a written consent from the prospective or current employee.
- C. The Borough shall bear the costs associated with conducting the criminal history and motor vehicle record background checks.
- D. Prospective or current Borough employees and shall submit their name, address, other required information and written consent to the Borough for the criminal history and motor vehicle record background check to be performed. The prospective or current Borough employee shall provide the Borough with all reasonable assistance to obtain background documentation/information.

E. The Division of State Police shall inform the Northvale Police Department and the Borough employee if the person's criminal history or motor vehicle record background check reveals a conviction of a crime or offense or motor vehicle violation.

F. The Police Department shall act as a custodian of records for the collection of information obtained as a result of conducting criminal history or motor vehicle record background checks pursuant to this article.

§ 74-8. Disqualification , Discipline, and Termination.

A. A Borough Employee may be disqualified, disciplined, and/or terminated if that person's criminal history record background check reveals a lack of good moral character, willful falsification of any information on the application for appointment submitted in accordance with this chapter, or convictions for the below specified crimes or offenses

- i. Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:11, et seq. (criminal homicide), N.J.S.A. 2C:12-1, et seq. (assault; stalking reckless endangering; threats), N.J.S.A. 2C:13-1, et seq. (kidnapping and related offenses), N.J.S.A. 2C:14-1 et seq. (sexual offenses), or N.J.S.A. 2C:15-1 et seq. (robbery); or
  - ii. Involving a first, second, third or fourth degree crime or any indictable level crime; or
  - iii. Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes; or
  - iv. Involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes; or
  - v. Involving any offense related to fires, arson, fire starting or false public alarms; or
  - vi. Involving any crime or offense that touches upon the ability to properly and adequately serve as a firefighter; or
  - vii. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly person's offenses described above.
  - viii. The list of crimes and violations contained in this section is for illustrative purposes only and shall not be construed as a limitation on those criminal activities or violations that would be grounds to disqualify, discipline, or terminate a Borough Employee as indicated herein.
- B. Refusal to submit to a background check shall result in the immediate disqualification and/or discipline (including termination) of a Borough Employee.

C. For purposes of interpreting the information recorded in a criminal history record, the Borough shall presume that the Borough Employee is innocent of any charges or arrest for which there is no final disposition on the record.

D. In the event that a Borough employee's motor vehicle record background check reveals violations of moving violations under Title 39 of the New Jersey Statutes or convictions for Driving While Intoxicated, or similar violations under any other state or jurisdiction, the Mayor and Council may restrict or prohibit such Borough employee from the use of a motor vehicle while performing Borough business or take such other disciplinary (including termination) action as the Mayor and Council may deem appropriate.

E. The determination of whether the information contained in the criminal history or motor vehicle record is sufficient to disqualify the appointment of a prospective employee or to discipline or terminate a current employee shall be made by the Mayor and Council.

§ 74-9. Limitations on access and use of criminal history record background checks.

The Borough shall limit its use of criminal history or motor vehicle record information solely to the authorized purpose for which it was obtained, and criminal history or motor vehicle record information furnished shall not be disseminated to persons or organizations not authorized to receive the records for authorized purposes. Use of this record shall be limited solely to the authorized purpose for which it was given and it shall not be disseminated to any unauthorized persons. This record shall be destroyed immediately after it has served its intended and authorized purpose. Any person violating federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.

§ 74-10. Employee may challenge accuracy of report.

If the criminal history or motor vehicle record information may disqualify a prospective or existing employee for any purpose, or subject such employee to discipline, the prospective or current employee shall have an opportunity to contest or challenge the accuracy of the information contained in the criminal history record and shall be afforded a reasonable period of time to correct and contest this record. A person is not presumed guilty of any charges or arrests for which there are no final dispositions indicated on the record.”

In the event that a prospective or existing employee contests their record, the determination of whether the information contained in the report/record is accurate and disqualifying, requiring discipline, or termination shall be made by the Mayor and Council.

SECTION 2. Inconsistency.

All ordinances or parts thereof, inconsistent herewith, are hereby repealed to the extent of such inconsistency.

SECTION 3. Severability.

If any sentence, section, clause or other portion of this ordinance, or the application thereof to any person or circumstances, shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this ordinance.

SECTION 4. Effective Date

This ordinance shall take effect immediately upon passage and publication as required by law.

**STANLEY E. PIEHLER**

Mayor

ATTEST:

Wanda A. Worner

Borough Clerk

Introduced: December 13, 2017

Public Hearing: December 26, 2017

Adopted: December 26, 2017